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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,059	10/24/2006	Adalbert Matyko	4529-6	3838
23117 7590 09/17/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			EXAMINER MERLINO, ALYSON MARIE	
			ART UNIT 3676	PAPER NUMBER
			MAIL DATE 09/17/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/553,059

Applicant(s)

MATYKO ET AL.

Examiner

Alyson M. Merlino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The examiner acknowledges applicant's amendments to claims 1-12 filed on 6 July 2007.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-4, 7, and 12 are rejected** under 35 U.S.C. 102(b) as being anticipated by Markbreit (WO 01/29353.A1).
4. **In regards to claim 1**, Markbreit discloses a multipoint lock (Figure 1) having a locking mechanism 18 adapted to selectively retract and extend at least one locking element 40, 42 relative to an elongate housing 12 (Page 2, lines 1-4). Markbreit further discloses that the locking mechanism includes an arm 34, (all linkage between portions 34 and 38, Figures 1 and 4) pivotally attached to a lock actuator 20 and constrained to travel in a first channel 88 (above and below lock actuator 20), 74 formed in a linkage device 80, 72 linked to said at least one locking element (Figures 4, 6, 9, and 10). The arm is at a first limit of travel (position of arm in channel 88, Figure 6, and position of arm in channel portion 74B, Figure 9) in the channel and is pivoted in a first angular direction with respect to the lock actuator (movement of arm from position in Figure 4 to position in Figure 6) so as to be geometrically locked at the first limit of travel (Figure 6)

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when the lock actuator is in a first position (Figures 6 and 7). Markbreit also discloses that the first limit of travel includes a terminus 88B formed at one end of the first channel and "generally" perpendicular to the rest of the first channel (Figure 4).

5. **In regards to claim 2**, Markbreit discloses that when the lock actuator is in a second position (Figures 4 and 5) the arm is at a second limit of travel (position of arm in channel, Figure 4) in the channel and is pivoted in a second angular direction (movement of arm from position in Figure 6 to position in Figure 4) with respect to the lock actuator so as to be geometrically locked at the second limit of travel (Figures 4 and 5).

6. **In regards to claim 3**, Markbreit discloses that when the lock actuator is in the first position, at least one locking element is in an extended, locked position relative to the elongate housing (apparent from the extension of linkage 36 connected to arm, Figures 6 and 7).

7. **In regards to claim 4**, Markbreit discloses that when the lock actuator is in the second position, at least one locking element is in a retracted, unlocked position relative to the elongate housing (apparent from the retraction of linkage 36 connected to arm, Figures 4 and 5).

8. **In regards to claim 7**, Markbreit discloses a multipoint lock (Figure 1) having a locking mechanism 18 adapted to selectively retract and extend at least one locking element 40, 42 relative to an elongate housing 12 (Page 2, lines 1-4). The locking mechanism includes an arm 34, 38 pivotally attached to a lock actuator 20 and constrained to travel in a channel 88, 74 formed in a linkage device 80, 72 linked to said

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at least one locking element (Figures 4, 6, 9, and 10). Markbreit further discloses that the channel includes at least two terminuses (channel portions where pin 86 of the arm 34 is locked above and below the lock actuator 20, Figure 6, and portion 74B of channel 74, Figure 9) extending from and "generally" perpendicular to the channel (Figure 4) at which the arm is in a locked position and at least one locking element is at an extended position protruding out of the elongate housing (Figure 6). Markbreit also discloses that at least one locking element 42 extends further out of the elongate housing with the arm at one of the terminuses than at another of the terminuses (Figure 1).

9. **In regards to claim 12**, Markbreit discloses that the arm is geometrically locked in at least on of said terminuses (Figures 4, 6, and 9).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. **Claims 8 and 11 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Markbreit (WO 01/29353 A1) in view of Hautau (EP 1061215 A2).

13. Markbreit discloses the multipoint lock as applied to claim 7 above, having a channel that includes an inner terminus (portion where pin 86 is locked, Figure 4) and an outer terminus 88B that is closer to an end of the elongate housing than the inner terminus (Figure 4), but fails to disclose that the channel includes at least one intermediate terminus that is "generally" perpendicular to the channel. Hautau teaches a multipoint lock (Figure 1b) having a channel 35, 35b with at least one intermediate terminus (slanted portion of channel where arm is locked in the position shown in Figure 3) that is "generally" perpendicular to the channel (Figure 1b). Since the inclusion of a more severe slanted portion to the channel disclosed by Markbreit would only require a change in shape of the channel, it would have been obvious to one of ordinary skill in the art at the time the invention was made to change the shape of the channel disclose by Markbreit to include an intermediate terminus, as taught by Hautau, that would allow the arm to be locked at an intermediate position between the first and second positions of the latch bolt in order to enhance the versatility of the lock. Furthermore, the inclusion of an intermediate terminus would allow the arm to be geometrically locked at a position along the channel disclosed by Markbreit.

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14. **Claims 9 and 10 rejected** under 35 U.S.C. 103(a) as being unpatentable over Markbreit (WO 01/29353 A1) in view of Hautau (EP 1061215 A2) in further view of Sandroock (US-4282769).

15. Markbreit in view of Hautau discloses the multipoint lock as applied to claims 1-4, 6-8, 11, and 12 above. Specifically, Hautau teaches the inclusion of at least one intermediate terminus between the inner and outer terminuses of the channel disclosed by Markbreit through which the arm travels. Markbreit in view of Hautau lacks a blocking element having first and second positions in which the element blocks certain portions of the channel so that the arm is prevented from traveling through those portions. Sandroock teaches a blocking element 31 that has a first position (Figure 2) and a second position (Figure 3), and is movable into a position for blocking an arm 20 from traveling throughout certain portions of channel 10. Since the inclusion of a blocking element is well known in the art, it would have been obvious to one of ordinary skill at the time the invention was made to include a blocking element for preventing the arm from movement through certain portions of the channel disclosed by Markbreit in order to enhance the versatility of the lock for various door sizes.

16. **Claims 1-8, 11, and 12 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Hautau (EP 1061215 A2).

17. The rejection of claims 7, 8, 11, and 12 in view of the prior art reference Hautau would be similar to that of the rejection of the same claims in view of Markbreit above, therefore, the rejection of claims 7, 8, 11, and 12 in view of Hautau will not be detailed below.

18. **In regards to claim 1**, Hautau discloses a multipoint lock (Figure 1b) having a locking mechanism 16, 25, 26, 30 adapted to selectively retract and extend at least one locking element 8, 10 relative to an elongate housing 12 (Page 2, lines 1-4). Hautau further discloses that the locking mechanism includes an arm 30 pivotally attached to a lock actuator 16 and constrained to travel in a first channel 35 in the housing that is linked to at least one locking element. The arm is at a first limit of travel (position of arm in channel 35, Figure 2) in the channel and is pivoted in a first angular direction with respect to the lock actuator (movement of arm from position in Figure 4 to position in Figure 2) so as to be geometrically locked at said first limit of travel (Figure 2) when the lock actuator is in a first position (Figures 2). Although Hautau fails to disclose that the channel 35 is formed in a linkage device separate from the housing, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place the channel in a linkage device that is separate from the housing since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Furthermore, prior art reference of record Markbreit teaches that it is well known in the art to have a separate linkage device 80 containing a channel 88 within a multipoint lock.

19. **In regards to claim 2**, Hautau discloses that when the lock actuator is in a second position (Figure 4) the arm is at a second limit of travel (position of arm in channel, Figure 4) in the channel and is pivoted in a second angular direction (movement of arm from position in Figure 2 to position in Figure 4) with respect to the lock actuator so as to be geometrically locked at the second limit of travel (Figure 4).



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20. **In regards to claim 3**, Hautau discloses that when the lock actuator is in the first position, at least one locking element is in an extended, locked position relative to the elongate housing (Figures 2 and 2a).

21. **In regards to claim 4**, Hautau discloses that when the lock actuator is in the second position, at least one locking element is in a retracted, unlocked position relative to the elongate housing (Figures 4 and 4a).

22. **In regards to claim 5**, although Hautau discloses that the lock actuator includes a handle 4 instead of a cylinder lock, in meshed engagement with a toothed rack 25, 26 to which the arm is pivotally attached (Figure 2), it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the handle actuator of the lock actuator with a cylinder lock since a cylinder lock is a well known rotating actuator in order to enhance the security of the multipoint lock.

23. **In regards to claim 6**, Hautau discloses that the linkage device includes a stationary linkage element (portion of housing 12 having grooves discussed in reference to claim 1 above and shown in Figure 1b) with a first channel 35 formed therein (Figure 1b) and a movable linkage element (portion of 21 between portion 21a and portion 25, Figure 1b) with a second channel 34 formed therein, with the movable linkage element being linked to at least one locking element (Figure 1b), and the arm received in both the first and second channels (Figures 2 and 3).

### ***Response to Arguments***

24. Applicant's arguments filed 6 July 2007 have been fully considered but they are not persuasive. Specifically, in regards to the "geometric locking" argument, the

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terminuses of the channels disclosed by Markbreit and Hautau have a "geometric shape," such as the shape of the terminus 88B of Markbreit, that allows a portion of the locking member to be locked, Figure 6 for example in Markbreit. The locking members of both Markbreit and Hautau are held in their positions within the terminuses, and are therefore "geometrically" locked in the terminus with respect to the rest of the channel.

### ***Conclusion***

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

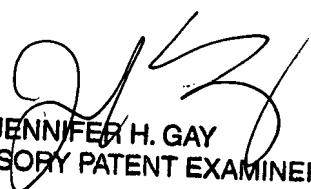
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on (571) 272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AM *AM*  
September 11, 2007

  
JENNIFER H. GAY  
SUPERVISORY PATENT EXAMINER